

OFFICE OF THE GENERAL COUNSEL
Division of Operations-Management

MEMORANDUM OM 96- 50

July 23, 1996

TO: All Regional Directors, Officers-in-Charge,
and Resident Officers

FROM: B. Allan Benson, Acting Associate General Counsel

Subject: Compliance Cases Under Impact Analysis

Commencing July 1, 1996, compliance cases in which the Board has issued an Order will be added to the intake report submitted to Headquarters each month. Form NLRB 4538, the Regional Case Dispositions Report, has been modified to accommodate this change.¹ An automated form of NLRB 4538 has been developed by the Statistical Services Unit, and will be distributed shortly to the Regions under separate cover.

When a Board Order issues, the case should be categorized² in accordance with the factors set forth in pages 28 through 33 of the Impact Analysis Training Manual, and the Region's monthly totals should be recorded on columns 19 through 19(c) on the Regional Case Dispositions Report.³ Only cases in which the Board directs a remedy should be added to the intake list. For example, Board decisions dismissing charges, deferring to the grievance procedure or remanding cases for further

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¹ This automated form also has separate columns for the "C" and "R" case intake by category (See columns 2(a) - (c) and 32(a) - (c)).

² An Impact Analysis Compliance Subgroup was recently established to further examine issues relating to the implementation of Impact Analysis to compliance work, including, inter alia, issues related to categorization. The instructions herein may well be modified as the result of the Subgroup's ongoing deliberations. Members of the Subgroup include SCO Shelley Korch, Region 5; SCO Irv Gottschalk, Region 30; SCO John Cotter, Region 34; CO Cynthia Spurlock, Region 28; CO Bill Yarbrough, Region 26; Acting DAGC Ken Shapiro, Contempt Branch; SA Abby P. Simms, Special Litigation Branch; RD Richard Ahearn, Region 9; and DAGC Dana Hesse, Operations-Management. Please feel free to contact any of them with respect to issues relating to implementation of Impact Analysis to compliance.

³ The Impact Analysis Training Manual states that when a Board Order issues the case should be recorded with the existing case number and a "(C)" added to the end of the number to distinguish it from initial filings. At this point, the dispositions report does not require the Regions to report actual case numbers to headquarters each month, and until further review of the application of Impact Analysis to compliance is complete, there will be no requirement to do so. The Regions, however, may wish to keep a log of such cases and numbers for internal purposes.

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proceedings would not be included. However, any case in which the Board directs the Region to obtain a remedy should be included, and its impact analysis category reflected in the appropriate column.

Cases should be reported on the dispositions report during the month in which they are categorized, but no later than 30 days after the issuance of the Board Order.⁴ The inclusion of compliance cases as intake was intended to credit the Regions with work performed in formal compliance. Counting these cases at the Board Order level, even if compliance is not achieved until after a court judgment, recognizes the resources dedicated to compliance at either level and simplifies administrative record keeping. It is expected that compliance cases will be added to the dispositions report only once during the compliance process, after the Board's decision, and not again after a court judgment issues. For those cases which are won before the Board and lost before the court, the Regions will continue to receive intake credit initially recorded after the Board Order. There is no need to adjust the records for actions after the Board Order.

Cases where a supplemental Board Order issues would not be added to the dispositions report. However, those cases where a second Order will require additional resources to obtain compliance may be reviewed on a case-by-case basis with your AGC to determine the appropriateness of listing those cases on the intake report to credit the Region with work required by Supplemental Orders.

Regional Office procedure related to compliance cases and intake with the CHIPS system is not being changed. Regions will continue to add information into the CHIPS data base under the original record for each case. Please note, however, that the inclusion of compliance cases in the case intake statistic does not relieve Regions of the need to prepare and submit the monthly Compliance Report, which reflects pending and overage cases.

To the extent that this reporting requirement may require adjustments in Regional Office procedure, it is appropriate to address these concerns with the local union or through the local partnership. If you have any questions regarding this memorandum, please contact your Work Group representative or your Assistant General Counsel.

B. A. B.

cc: NLRBU

⁴ For example, if a Board Order is received on the 20th of January, but not categorized until the first of February, it would be reported in the February disposition report.